

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

FRANK FISCHER, an individual,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2:05-cv-00763-DRB
)	
SYSCO FOOD SERVICES OF)	
CENTRAL ALABAMA, INC., et al.,)	
)	
Defendants.)	

MOTION TO COMPEL

Defendant Sysco Food Services of Central Alabama, Inc. (“Sysco”) respectfully moves this Court to enter an order compelling Plaintiff Frank Fischer (“Fischer”) to provide initial disclosures and responses to discovery. As grounds for this motion, Sysco states as follows:

1. On December 13, 2005, counsel for Fischer and Sysco met pursuant to Local Rule 26(a)(1) for a planning meeting. By the terms of that agreement, pre-discovery disclosures were to be exchanged by January 27, 2006. (Attached hereto as Exhibit 1).

2. As of the date of the filing of this motion, no pre-discovery disclosures have been provided to Sysco.

3. On December 21, 2005, Sysco served discovery Requests in the form of interrogatories and requests for production of documents on Fischer. (Attached hereto as Exhibits 2 and 3).

4. As of the date of the filing of this motion, no discovery responses have been provided to Sysco.

5. On January 27, 2006, counsel for Sysco endeavored to resolve the subject of this discovery motion through correspondence. (Attached as Exhibit 4 is a true and correct copy of the January 27, 2006 letters). Specifically, counsel requested responses by February 6, 2006. Sysco neither received, by February 6 nor by the date of the filing of this motion, responses to this discovery.

WHEREFORE, PREMISES CONSIDERED, Sysco respectfully requests that this Court enter an order compelling Fischer to submit pre-discovery disclosures and responsive discovery.

s/William D. Smith, Jr.
William D. Smith, Jr.
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of Central Alabama, Inc.
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CERTIFICATE OF SERVICE

I hereby certify that on February ____, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Davis L. Middlemas, Esq.
SOUTHLAW, P.C.
3120 AmSouth/Harbert Plaza
1901 6th Avenue North
Birmingham, Alabama 35203

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None.

s/William D. Smith, Jr.
William D. Smith, Jr.
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